

REMARKS

The Office Action contends that the following distinct inventions are present in the present application:

Invention I	Claims 44 to 102
Invention II	Claims 103 to 105

For the reasons more fully set forth below, Applicants respectfully traverse the requirement for restriction to one of the above “inventions”.

Notwithstanding the traverse and to the extent that the contention it is maintained, Applicants elect the claims of Invention I, i.e., claims 44 to 102, for further prosecution.

The Office Action contends that restriction is proper because the inventions are distinct and there would be a serious search and examination burden if restriction were not required. Applicants respectfully disagree for the following reasons and respectfully traverse the restriction requirement.

As an initial matter, the present application is the U.S. national phase of international application PCT/EP2004/012800 and the unity of invention analysis is appropriate when determining the need for restriction in the application. The requirement for unity of invention is fulfilled where there is “a technical relationship among those inventions involving one or more of the same or corresponding special technical features,” with the expression “special technical features” meaning “those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.” See 37 C.F.R. § 1.475(a). Furthermore, 37 C.F.R. § 1.475(b) plainly permits the inclusion of, inter alia, the following combination in the same international application: an independent claim for a given product and an independent claim for a process specially adapted for the manufacture of the product. Under PCT Rule 13.2, a process is considered to be specifically adapted for the manufacture of a product if the claimed process inherently results in the claimed product with the technical relationship being present between the claimed product and the claimed process.

Thus, a determination as to whether claims comply with the unity of invention requirement requires consideration of prior art and contributions of the claims over the prior art. In the present Office Action, there is no indication whatsoever that the questions of whether the claims form a single general inventive concept or whether there is a technical relationship between the claims that involves

at least one common or corresponding technical feature have been considered, as they must for a proper unity of invention analysis. Quite the contrary. The Office Action merely states that the statement included in the previous Office Action that “the apparatus as claimed can be used to practice another and materially different process”. Whether or not “the apparatus as claimed can be used to practice another and materially different process” is entirely irrelevant to the question of whether the present application complies with the unity of invention requirement. This is because there has been no apparent consideration as to whether the claims form a single general inventive concept or whether there is a technical relationship between the claims that involves at least one common or corresponding technical feature.

For all of the foregoing reasons, it is respectfully submitted that the present application fully complies with the unity of invention requirement. As such, the restriction requirement is hereby traversed, and withdrawal of the restriction requirement is respectfully requested.

Prompt consideration and allowance of the present application are earnestly solicited.

Respectfully submitted,

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